IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO.114 OF 1994

Jethmal Mohanlal Khivansara ...Petitioner

vs.

Yeshwant Shankar Bhagwat and anr. ...Respondents

Mr.Shimpi i/b Mr.P.K.Dhakephalkar for the Petitioner
Ms B.P.Jakhade for Respondent No.1.
Mr.A.R.Patil,A.G.P. for Respondent No.2.

CORAM: A.S.OKA,J.
DATE : MAY 4,2007.

P.C.:

1. Heard Advocates for the parties. The first Respondent-Contemnor is personally present in the court. It is not in dispute that the first Respondent has handed over the possession of the suit premises to the Petitioner on 3rd May 2007.

2. As per the undertaking given to this Court, the first Respondent was under an obligation to vacate the suit premises on or before 30th June 1992. My attention has been invited to the various orders passed by this Court. At the time of issuing rule on this Contempt Petition, this Court directed the first Respondent to hand over possession of the suit premises. An Appeal was preferred by the first Respondent before the Division Bench. On 20th October 1994, a Division Bench admitted the Appeal and stayed the order passed by the

learned Single Judge directing the first Respondent to hand over possession of the suit premises. The Appeal was dismissed for default on 3rd March 2003. The Application for restoration of the Appeal was dismissed on 20th January 2004. Another Application made by the first Respondent for restoration of the Appeal was dismissed on 30th August 2004. A Special Leave Petition filed by the first Respondent was dismissed on 25th September 2006.

3. The first Respondent has filed an Affidavit affirmed today in which the first Respondent has tendered an unconditional apology. Though in the Affidavit it is stated that he is willing to pay costs of Rs.5,000/-, the learned Advocate for the first respondent on instructions of the first Respondent states that he is willing to pay costs of Rs.15,000/- to the Petitioner.

3. It is true that there was an interim relief granted in favour of the first Respondent by the Division Bench. However, after the said order of interim relief was vacated, the first Respondent ought to have handed over the possession of the suit premises. The learned Advocate for the first Respondent stated that he has been regularly depositing the compensation equivalent to rent in the Trial Court. The first Respondent has offered to compensate the Petitioner by paying costs of Rs.15,000/-. In my view, this is a case of the

deliberate violation of an undertaking given by the first Respondent to this Court. However, considering the aforesaid circumstances and especially the interim relief granted by the Division Bench, the first Respondent deserves to be let off by accepting the apology. The first Respondent has offered to pay substantial costs.

4. Hence, the Contempt Petition is disposed of by passing the following order :

i) The apology tendered by the first Respondent in the Affidavit dated 4th May 2007 is accepted. Statement made by the first Respondent to pay costs of Rs.15,000/- of this Petition to the Petitioner is accepted.

ii) Accordingly, the first Respondent is directed to pay costs of Rs.15,000/- to the Petitioner within a period of three weeks from today. No extension of time will be granted.

iii) Notice is discharged.

iv) Contempt Petition is disposed of in above terms.

JUDGE